

REMARKS

Claims 12 to 33 are now pending.

Reconsideration is respectfully requested based on the following.

Claims 12, 17, 20, and 25 were rejected under 35 U.S.C. 112, first paragraph.

While the rejections may not be agreed with, to facilitate matters, the claims have been rewritten. The specification supports the rewritten claim language. For example, at page 3, lines 3-5, the specification states that “[t]his redundancy may be used in the case of an error by using only the lighting information from the error-free image sensor.” Further support is found in the specification (see, e.g., page 4, line 30 to page 5, line 5).

Claims 12 to 33 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,987,534 (“Seta”).

As regards the anticipation rejections of the claims, to reject a claim under 35 U.S.C. § 102, the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (See *Scripps Clinic & Research Foundation v. Genentech, Inc.*, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). As explained herein, it is respectfully submitted that the prior Office Action does not meet this standard, for example, as to all of the features of the claims. Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed subject matter. (See *Akzo, N.V. v. U.S.I.T.C.*, 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)).

As further regards the anticipation rejections, to the extent that the Office Action may be relying on the inherency doctrine, it is respectfully submitted that to rely on inherency, the Office must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics *necessarily* flows from the teachings of the applied art.” (See M.P.E.P. § 2112; emphasis in original; and see *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int’f. 1990)). Thus, the M.P.E.P. and the case law make clear that simply because a certain result or characteristic may occur in the prior art does not establish the inherency of that result or characteristic.

While the rejections may not be agreed with, to facilitate matters, claim 12, as presented, provides that “when at least one error of at least one error type occurs in at least one of the image sensors, ignoring a measured value from the at least one of the image sensors, adjusting at least one parameter of the at least one image sensor as a function of at

least one other measured value of at least one other of the image sensors of the image sensor system, wherein the measured value is of the same type as the other measured value.” It is respectfully submitted that the Seta reference does not identically disclose (nor even suggest) these features, as provided for in the context of the claimed subject matter.

The Seta reference merely states that “where the SUM is smaller than a negative threshold value (-3500), . . . the program goes to step 11 where 1 is added to the current sub gain indicating value GSUB”, and it also refers to the reverse operation, i.e., a threshold value over (+3500) and subtracting 1 from GSUB. This, however, does not identically disclose (nor even suggest) the feature of “*ignoring a measured value* from the at least one of the image sensors, *adjusting* at least one parameter of the at least one image sensor *as a function of at least one other measured value of at least one other of the image sensors of the image sensor system.*” The Seta reference *uses* the measurement from the “sub camera,” and only adjusts that base measurement in certain circumstances. This does not identically disclose (or even suggest) the feature of *ignoring* the measurement of one of the cameras, as provided for in the context of the claimed subject matter.

Accordingly, claim 12, as presented, is allowable, as are its dependent claims 13 to 16.

Claims 17, 20, and 25, as presented, include features like those of the claim 12, as presented, and are therefore allowable for essentially the same reasons, as are their respective dependent claims 18, 19, 21 to 24, and 26 to 33.

Accordingly, claims 12 to 33 are allowable.

CONCLUSION

In view of the foregoing, all of claims 12 to 33 are allowable. It is therefore respectfully requested that the rejections (and any objections) be withdrawn. Prompt reconsideration and allowance of the present application are therefore respectfully requested.

Respectfully submitted,
KENYON & KENYON LLP

Dated: 12/8/2008

By: Gerard A. Messina

Gerard A. Messina
(Reg. No. 35,952)

One Broadway
New York, NY 10004
(212) 425-7200

33,865

Aaron C
DEITCH

1596877v2

CUSTOMER NO. 26646